



### REMARKS/ARGUMENTS

Claims 45-82 are pending in the present application. The Examiner is thanked for the kind allowance of claims 45-77. Claims 78-82 stand rejected.

#### Claim Rejection – 35 U.S.C. §102(b)

Claims 78-82 stand rejected under 35 U.S.C. §102(b) as being allegedly anticipated by Kensey et al. (U.S. Patent 5,676,689). Applicant respectfully traverses this rejection.

The Office action states:

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“Kensey et al. teach a fluid handling tube (see figure 29, for example). Kensey et al, teach a tube 28 including a proximal end (at 28E) and a distal end (at 28C) and a lumen extending between the distal end and the proximal end. The tube includes an enlarged proximal end (at 28E) for assisting in the delivery of fluids therethrough and includes a larger diameter lumen for accommodating a device 28A which includes a tube 28D with a fluid stopcock 28E at its end. The tube 28 receives therein a control head 400 [which] has a distal end (figure 28 at 404) and a proximal end (at 406) inside the lumen (figure 29). **The control head having a port 404** at its distal end for passing fluids therethrough.”

Applicant respectfully disagrees for the reasons, among others, stated below.

According to the M.P.E.P., a claim is anticipated under 35 U.S.C. § 102 (b) and (e) only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.<sup>1</sup>

Claim 78 provides for:

“A fluid handling tube, comprising:

<sup>1</sup> Manual of Patent Examining Procedure (MPEP) § 2131. See also *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

a proximal end and a distal end;  
a lumen extending between said proximal end and said distal end; and  
at least one fluid port near said proximal end for fluids to exit out of said lumen.”

Thus, claim 78 provides that the **fluid handling tube**, and not the control head, has “at least one fluid port near said proximal end.”

As the Examiner correctly pointed out and stated, Kensey states that the **control head** has a port 404 at its distal end. Thus, Kensey states that its **control head** has a port, but does not provide for a **fluid handling tube** having at least one fluid port near its proximal end as claimed in claim 78.

Accordingly, since each and every element as set from in claim 1 is not found in Kensey, it can not be said to anticipate the claimed invention. Thus, it is respectfully requested that this rejection be withdrawn.

**Claim Rejection – 35 U.S.C. §102(e)**

Claims 78-81 stand rejected under 35 U.S.C. 102(e) as allegedly being anticipated by Cragg et al. (U.S. Patent 6,162,192). This rejection is respectfully traversed.

The office action states:

“Cragg et al. teach a fluid handling tube 12. Cragg et al. teach the tube 12 as including a proximal end (at 42) and a distal end (at 46) and a lumen 36 extending between the distal end and the proximal end. The tube includes an enlarged proximal end 34 for assisting in the delivery of fluids therethrough and includes a larger diameter lumen for accommodating a pledget 40 and blood vessel 102 and a proximal end exiting beyond the tube.”

As stated above, Claim 78 provides for a “fluid handling tube, comprising: ... at least one fluid port near said proximal end for fluids to exit out of said lumen.” The

Examiner failed to cite and Applicant can not locate where that portion of claim 78 is stated in Cragg et al.

Accordingly, since each and every element as set forth in claim 78 is not found in Cragg et al., it can not be said to anticipate the claimed invention. Thus, it is respectfully requested that this rejection be withdrawn.

**Remaining Dependent Claims**

The argument set forth above is equally applicable here. The base claims being allowable, the dependent claims must also be allowable.

In view of the foregoing, among others, it is respectfully asserted that the claims are now in condition for allowance.

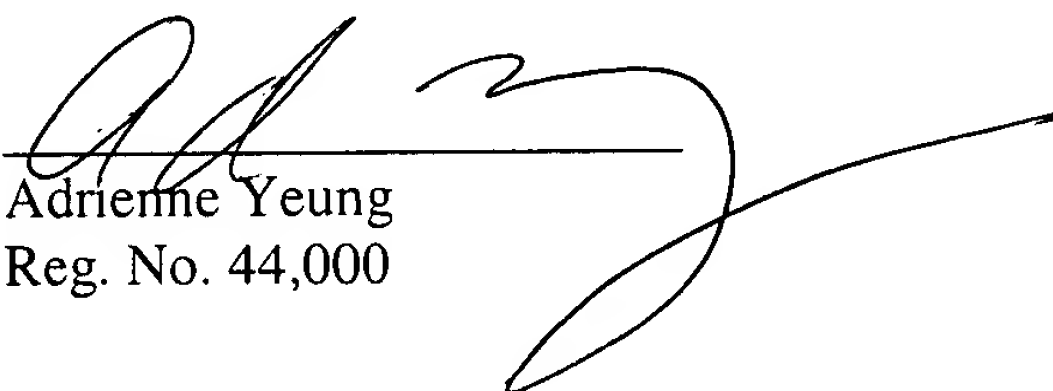
**Request for Allowance**

It is believed that this Response places the above-identified patent application into condition for allowance. Early favorable consideration of this application is earnestly solicited.

If, in the opinion of the Examiner, an interview would expedite the prosecution of this application, the Examiner is invited to call the undersigned attorney at the number indicated below.

Respectfully submitted,  
THELEN REID & PRIEST, LLP

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